



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2018-0722; FRL-9994-40-Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Commercial Fuel Oil Sulfur Limits for Combustion Units in Philadelphia County

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a state implementation plan (SIP) revision submitted by the Commonwealth of Pennsylvania (Pennsylvania). The revision updates Philadelphia County's portion of the Pennsylvania SIP, which includes regulations concerning sulfur content in fuel oil. Implementation of these provisions will reduce the amount of sulfur in fuel oils used in combustion units in Philadelphia County. EPA is approving these revisions to the Pennsylvania SIP in accordance with the requirements of the Clean Air Act (CAA).

DATES: This final rule is effective on **[insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2018-0722. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not

placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov>, or please contact the person identified in the “For Further Information Contact” section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Erin Trouba, Planning & Implementation Branch (3AD30), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814-2023. Ms. Trouba can also be reached via electronic mail at trouba.erin@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On March 19, 2019 (84 FR 9991), EPA published a notice of proposed rulemaking (NPRM) for the Commonwealth of Pennsylvania. In the NPRM, EPA proposed approval of lower commercial fuel oil sulfur limits for combustion and sale in Philadelphia County into the Pennsylvania SIP. The formal SIP revision was submitted by the City of Philadelphia, Air Management Services (AMS) through the Pennsylvania Department of Environmental Protection (PADEP) on June 21, 2018. The SIP revision consists of an amendment to 40 CFR 52.2020(c)(3), the Philadelphia County portion of the SIP, in order to implement provisions for lower sulfur levels in commercial fuel oil in Philadelphia County.

II. Summary of SIP Revision and EPA Analysis

Through its June 2018 SIP revision submittal, Pennsylvania sought to revise its SIP by including amendments to Section 3-207 of the Air Management Code (AMC), as well as Sections I, II, and III of Air Management Regulation (AMR) III (Control of Emissions of Oxides and Sulfur

Compounds). The revision lowers the maximum allowable sulfur content in number 2 and lighter fuel oils from 0.2 percent (%) by weight (2000 parts per million (ppm)) to 0.0015% by weight (15 ppm) and lowers the maximum allowable sulfur content in number 4 fuel oils from 0.3% by weight (3000 ppm) to 0.25% by weight (2500 ppm).

The revision also lowers the permissible sulfur dioxide (SO₂) emissions from the combustion of number 4 fuel oils and lowers the sulfur oxides emission limit to 0.4 ppm for any 5-minute period when measured at ground level. The revision allows commercial fuel oil stored by the ultimate consumer at its facility prior to the applicable compliance date, July 1, 2015, to be used after that applicable compliance date, if the fuel oil met the applicable maximum allowable sulfur content at the time it was stored, provided that certain conditions are met. Also included in the revised provisions are exemptions for using noncompliant fuel oil beyond July 1, 2020 and an emergency conditions provision.

Other specific requirements of lower commercial fuel oil sulfur limits for combustion and sale in Philadelphia County and the rationale for EPA's proposed action are explained in the NPRM, which is available in the docket for this rulemaking located at <https://www.regulations.gov>, Docket ID Number EPA-R03-OAR-2018-0722. No adverse public comments were received on the NPRM. Two identical positive public comments were received.

III. Final Action

EPA is approving Pennsylvania's June 21, 2018 SIP submittal that lowers commercial fuel oil sulfur limits for combustion units in Philadelphia County as a revision to the Pennsylvania SIP. With this approval, EPA will incorporate amended AMC Section 3-207 and AMR III Sections I, II, and III into the Commonwealth of Pennsylvania's SIP.

IV. Incorporation by Reference

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of lower commercial fuel oil sulfur limits for combustion units in Philadelphia County discussed in Sections I and II of this action. EPA has made, and will continue to make, these materials generally available through www.regulations.gov and at the EPA Region III Office (please contact the person identified in the “For Further Information Contact” section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully Federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA’s approval, and will be incorporated by reference in the next update to the SIP compilation.¹

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

¹ 62 FR 27968 (May 22, 1997).

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

VI. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[Insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action regarding commercial fuel oil sulfur limits for combustion and sale in Philadelphia County may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: May 17, 2019.

Cosmo Servidio,
Regional Administrator,
Region III.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart NN—Pennsylvania

2. In § 52.2020, the table in paragraph (c)(3) is amended by revising:

a. Under “Title 3-Air Management Code” an entry “Chapter 3-200”; and

b. Under “Regulation III”, entries “Section I”, “Section II”, and “Section III”.

The revisions read as follows:

§ 52.2020 Identification of plan.

* * * *

(c) ***

(3)***

Rule citation	Title/subject	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
Title 3—Air Management Code				
* * * *	* * * *			
Chapter 3-200	Prohibited Conduct	06/18/15	<u>[Insert date of publication in the Federal Register, Insert Federal Register citation]</u>	Section 3-207 was amended to lower the allowable sulfur content in fuel oils in Philadelphia County.
* * * *	* * * *	* * *		
Regulation III—The Control of Emissions of Oxides and Sulfur Compounds				
Section I	No Title [General Provisions]	11/25/15	<u>[Insert date of publication]</u>	

Rule citation	Title/subject	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
			<u>in the Federal Register, Insert Federal Register citation]</u>	
Section II	Control of Sulfur Compound Emissions	11/25/15	<u>[Insert date of publication in the Federal Register, Insert Federal Register citation]</u>	
Section III	Control of Sulfur in Fuels	11/25/15	<u>[Insert date of publication in the Federal Register, Insert Federal Register citation]</u>	
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[FR Doc. 2019-11171 Filed: 5/30/2019 8:45 am; Publication Date: 5/31/2019]